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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,366	01/14/2002	Donald R. Fralic	3633-012217	5072

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EXAMINER

APPLE, KIRSTEN SACHWITZ

ART UNIT	PAPER NUMBER
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3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/047,366

Applicant(s)

FRALIC, DONALD R.

Examiner

Kirsten S. Apple

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/25/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>no IDS</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

This action is in response to the application response filed on 1/25/07.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular it is indefinite and the examiner did not understand:

“quantitative data” that is ranked

It is unclear to the examiner and one of ordinary skill in the art what is claim by this description. Either define more specifically what this is such as “number of year at present address” or “hair color” or whatever the applicants is unique information not used in prior art for determining loan criteria. For the purposes of this review the examiner will interpret the claim to be:

“data”

Claim Rejections - 35 USC § 101

Claims 1-5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In particular, with respect to noted claims Examiner finds they lack concrete result. Examiner notes that the focus of this analysis is on the result, not the individual steps.

With respect to a concrete result, the process must have a result that can be substantially repeated. In this case, Examiner finds that result of the claims (providing ranked scores for qualitative data) to lack repeatability. Any qualitative data must be turned into a number or quantitative data to be ranked by definition making it quantitative data. Without such transformation there is now way to rank it in a systematic repeatable fashion.

Claim Rejections - 35 USC § 102

The Examiner has read and reviewed all of the information provided by the Applicant.
The examiner rejects as final claims 1-5 under 35 USC 102.

The Applicant attention is re-drawn to the following:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Zandi (US Patent 5,966,699).

Re claim 1: Zandi discloses:

A lease auction method comprising the steps of:

a) Providing to lessor's computer lessee first variable and data regarding a lease (see Zandi, Figure 1, Item 50 + Figure 4A, item 110)

b) Receiving from a lessor's computer a lessor second variable and data regarding the lease (see Zandi, Figure 1, Item 50 + Figure 4A, item 115)

c) Receiving from the lessee's computer the second lease variable, grade and relative weight (see Zandi, Figure 1, Item 30 + Figure 4A, item 105)

d) Processing the grade and relative weight for second variable and data to determining a weighted total score (see Zandi, Figure 1, Item 20)

e) Ranking the weighted total scores (see Zandi, Figure 1, Item 20 + paragraph 47

"Loan Application Software has... ranking based on certain criteria.")

f) Providing ranked scores to lessee's and lessor's computer (see Zandi, Figure 1, Item 20 + paragraph 47 "Loan Application Software has... ranking based on certain criteria.")

g) Repeating steps c-f each time a change of lessor quantitative variables or data (see response to c-f above)

Re claim 2: Zandi discloses:

A lease auction method comprising the steps of:

a) Receiving from a lessee's computer a first variables & data regarding the lease (see Zandi, Figure 1, Item 30 + Figure 4A, item 105)

b) Processing first variables to obtain first lease simulation outcome (see Zandi, Figure 1, Item 20)

c) Providing obtain first lease simulation outcome to lessee's computer (see Zandi, Figure 1, Item 20)

d) Receiving from a lessee's computer a second variables & quantitative data regarding the lease (see Zandi, Figure 1, Item 30 + Figure 4A, item 105)

e) Processing second variables & quantitative to obtain first lease simulation outcome (see Zandi, Figure 1, Item 20)

f) Providing obtain first lease simulation outcome to lessee's computer (see Zandi, Figure 1, Item 20)

g) Providing first and second variables, data & simulations outcomes to lessor computer (see Zandi, Figure 1, Item 50 + Figure 4A, item 110)

Re claim 3: Zandi discloses:

Commencing the auction after completing one or more lease simulations and terminating the auction at one of

A predetermined time (see Zandi, Figure 4B, Item 135)

Re claim 4: Zandi discloses:

Lessor & lessee qualitative variables include, one of:

loan documents (see Zandi, "detailed description", Paragraph 42)

(The other list items may also be included in Zandi however only one is sufficient.)

Re claim 5: Zandi discloses:

Lessor & lessee quantitative variables include, one of:

Terms of lease (see Zandi, "detailed description", Paragraph 13 "most favorable terms")

(The other list items may also be included in Zandi however only one is sufficient.)

Response to Arguments

Applicant's arguments filed 1/25/07 have been fully considered but they are not persuasive.

In particular, and respect to Claim 1 the Applicant argued 1st: "unclear how Zandi patent includes qualitative variables"

The Examiner refutes the argument made by the Applicant and draws the attention to Zandi, Figure 1, Item 50 + Figure 4A, item 110. With in the loan application Zandi collects lots of different data. It does not specify if this data is quantitative or qualitative. The examiner would infer that it is both for example a credit score is a quantitative output data made up of qualitative data inputs such as number of years in current residence, do they rent or own, location of house, etc. Therefore the examiner argues that Zandi includes both quantitative or qualitative. The examiner has made a 112 and 101 rejection asking to further define the “quantitative” they believe is the unique feature.

Applicants argued 2nd, “Unclear how the reference shows uses of grade or relative weight for qualitative variables”

The Examiner refutes the argument made by the Applicant and draws the attention to Zandi, column 6, line 57-58 “analysis of loan offers including reports, graphics and ranking based on certain criteria.” Also see Zandi, figure 4A, Item 115 – “loan is approved” it is inherent that some ranking and cut-off calculation was preformed in order to determine if approved or not.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6126.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksa

 4/2/07
JAMES A. KRAMER
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